

SECOND REGULAR SESSION

# HOUSE BILL NO. 2009

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE O'CONNOR.

Read 1<sup>st</sup> time February 20, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4677L.011

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### AN ACT

To repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to requirements for licensure of motor vehicle dealers, manufacturers, and auctions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) When the application is being made for licensure as a manufacturer, boat manufacturer, motor vehicle dealer, boat dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be authorized by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed, that the applicant has a bona fide established place of business. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 conduct the business. The applicant's place of business shall contain a working telephone which  
18 shall be maintained during the entire registration year. In order to qualify as a bona fide  
19 established place of business for all applicants licensed pursuant to this section there shall be an  
20 exterior sign displayed carrying the name [and class] of **the** business [conducted] **set forth** in  
21 letters at least six inches in height and clearly visible to the public and there shall be an area or  
22 lot which shall not be a public street on which one or more vehicles may be displayed, except  
23 when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. **The**  
24 **sign shall contain the name of the dealership by which it is known to the public through**  
25 **advertising or otherwise, which need not be identical to the name appearing on the**  
26 **dealership's license so long as such name is registered as a fictitious name with the**  
27 **secretary of state, and a copy of such fictitious name registration has been provided to the**  
28 **department.** When licensure is for a boat dealer, a lot shall not be required. In the case of new  
29 motor vehicle franchise dealers, the bona fide established place of business shall include  
30 adequate facilities, tools and personnel necessary to properly service and repair motor vehicles  
31 and trailers under their franchisor's warranty;

32 (2) If the application is for licensure as a manufacturer, boat manufacturer, new motor  
33 vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer  
34 or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches,  
35 showing the business building and sign shall accompany the initial application. In the case of  
36 a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph  
37 shall include the lot of the business. A new motor vehicle franchise dealer applicant who has  
38 purchased a currently licensed new motor vehicle franchised dealership shall be allowed to  
39 submit a photograph of the existing dealership building, lot and sign but shall be required to  
40 submit a new photograph upon the installation of the new dealership sign as required by sections  
41 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the  
42 business has moved from its previously licensed location, or unless the name of the business or  
43 address has changed, or unless the class of business has changed;

44 (3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat  
45 dealer, the application shall contain the business address, not a post office box, and telephone  
46 number of the place where the books, records, files and other matters required and necessary to  
47 conduct the business are located and where the same may be inspected during normal daytime  
48 business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required  
49 of new franchised motor vehicle dealers and used motor vehicle dealers;

50 (4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer,  
51 a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate  
52 surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by

53 any state or federal financial institution in the penal sum of twenty-five thousand dollars on a  
54 form approved by the department. The bond or irrevocable letter of credit shall be conditioned  
55 upon the dealer complying with the provisions of the statutes applicable to new motor vehicle  
56 franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers,  
57 and the bond shall be an indemnity for any loss sustained by reason of the acts of the person  
58 bonded when such acts constitute grounds for the suspension or revocation of the dealer's license.  
59 The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved  
60 parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary;  
61 except, that the aggregate liability of the surety or financial institution to the aggrieved parties  
62 shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds  
63 of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final  
64 judgment from a Missouri court of competent jurisdiction against the principal and in favor of  
65 an aggrieved party;

66 (5) Payment of all necessary license fees as established by the department. In  
67 establishing the amount of the annual license fees, the department shall, as near as possible,  
68 produce sufficient total income to offset operational expenses of the department relating to the  
69 administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of  
70 sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or  
71 certificates of number collected pursuant to subsection 6 of this section, shall be collected by the  
72 department for deposit in the state treasury to the credit of the "Motor Vehicle Commission  
73 Fund", which is hereby created. The motor vehicle commission fund shall be administered by  
74 the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary  
75 notwithstanding, money in such fund shall not be transferred and placed to the credit of the  
76 general revenue fund until the amount in the motor vehicle commission fund at the end of the  
77 biennium exceeds two times the amount of the appropriation from such fund for the preceding  
78 fiscal year or, if the department requires permit renewal less frequently than yearly, then three  
79 times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the  
80 fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation  
81 from such fund for the preceding fiscal year.

82 2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale  
83 motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle  
84 auction submits an application for a license for a new business and the applicant has complied  
85 with all the provisions of this section, the department shall make a decision to grant or deny the  
86 license to the applicant within eight working hours after receipt of the dealer's application,  
87 notwithstanding any rule of the department.

88 3. Upon the initial issuance of a license by the department, the department shall assign

89 a distinctive dealer license number or certificate of number to the applicant and the department  
90 shall issue one number plate or certificate bearing the distinctive dealer license number or  
91 certificate of number within eight working hours after presentment of the application. Upon the  
92 renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor  
93 vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the  
94 department shall issue the distinctive dealer license number or certificate of number as quickly  
95 as possible. The issuance of such distinctive dealer license number or certificate of number shall  
96 be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat  
97 dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle  
98 dealer, wholesale motor vehicle auction or motor vehicle dealer.

99 4. Notwithstanding any other provision of the law to the contrary, the department shall  
100 assign the following distinctive dealer license numbers to:

101

102	New motor vehicle franchise dealers .....	D-0 through D-999
103	New motor vehicle franchise and commercial motor	
104	vehicle dealers .....	D-1000 through D-1999
105	Used motor vehicle dealers .....	D-2000 through D-5399
106		and D-6000 through D-9999
107	Wholesale motor vehicle dealers .....	W-1000 through W-1999
108	Wholesale motor vehicle auctions .....	W-2000 through W-2999
109	Trailer dealers .....	T-0 through T-9999
110	Motor vehicle and trailer manufacturers .....	M-0 through M-9999
111	[Motorcycle] <b>Powersport</b> dealers .....	D-5400 through D-5999
112	Public motor vehicle auctions .....	A-1000 through A-1999
113	Boat dealers and boat manufacturers .....	B-0 through B-9999

114 5. Upon the sale of a currently licensed new motor vehicle franchise dealership the  
115 department shall, upon request, authorize the new approved dealer applicant to retain the selling  
116 dealer's license number and shall cause the new dealer's records to indicate such transfer.

117 6. In the case of manufacturers and motor vehicle dealers, the department shall also issue  
118 one number plate bearing the distinctive dealer license number to the applicant upon payment  
119 by the manufacturer or dealer of a fifty-dollar fee. Such license plates shall be made with fully  
120 reflective material with a common color scheme and design, shall be clearly visible at night, and  
121 shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat  
122 manufacturers shall be entitled to one certificate of number bearing such number upon the  
123 payment of a fifty-dollar fee. As many additional number plates as may be desired by  
124 manufacturers and motor vehicle dealers and as many additional certificates of number as may

125 be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten  
126 dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer,  
127 manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer  
128 or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or  
129 additional license plate or additional certificate of number, throughout the calendar year, shall  
130 be required to pay a fee for such license plates or certificates of number computed on the basis  
131 of one-twelfth of the full fee prescribed for the original and duplicate number plates or  
132 certificates of number for such dealers' licenses, multiplied by the number of months remaining  
133 in the licensing period for which the dealer or manufacturers shall be required to be licensed.  
134 In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

135         7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any  
136 motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used  
137 by a customer who is test driving the motor vehicle, or is used by an employee or officer, but  
138 shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any  
139 regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates  
140 on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

141         8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be  
142 displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a  
143 boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by  
144 an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned  
145 to others or upon any regularly used service vessel or vessel trailer. Boat dealers and  
146 manufacturers may display their certificate of number on a vessel or vessel trailer which is being  
147 transported to an exhibit or show.